

FILED

UNITED STATES COURT OF APPEALS

MAY 25 2011

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LUKE D. BRUGNARA,

Defendant - Appellant.

Nos. 10-10283, 10-10286

D.C. Nos. 3:08-cr-00236-MMC

3:08-cr-00222-WHA

Northern District of California,
San Francisco

ORDER

Before: RYMER and CALLAHAN, Circuit Judges.

Appellant's motion for bail pending appeal in consolidated appeal nos. 10-10283 and 10-10286 is denied.

In reviewing the district court's denial of release pending appeal, we review factual determinations for clear error and legal determinations de novo. *United States v. Garcia*, 340 F.3d 1013, 1015 (9th Cir. 2003).

The district courts did not err in finding that appellant has not shown, by clear and convincing evidence, that appellant is not likely to pose a danger to the safety of any other person or the community if released. *See* 18 U.S.C. § 3143(b); *United States v. Handy*, 761 F.2d 1279, 1283 (9th Cir. 1985).

Additionally, appellant has not shown that these appeals raise a “substantial question” of law or fact that is likely to result in reversal, an order for a new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeals process. *See* 18 U.S.C. § 3143(b); *United States v. Handy*, 761 F.2d 1279, 1283 (9th Cir. 1985). Accordingly, appellant’s motion for bail pending appeal is denied.

Primary briefing is complete.